

California Department of Parks and Recreation Proposed PRC 513 Implementation Guidelines

Introduction

Effective January 1, 2009, SB 1127 amended the Public Resources Code (PRC) 513 to define cooperating associations, expand the interpretive and educational activities performed by cooperating associations and allow the sale of non-interpretive, non-educational materials and services by cooperating associations following an unsuccessful good faith effort to obtain a concessionaire.

This document outlines a process for implementing the newly amended PRC 513. The goal is to implement these guidelines as soon as practical, recognizing that some of these changes may be implemented in phases.

This document includes the statutory authority, a description of interpretive and educational materials and services, and the proposed policies and procedures followed by five exhibits. Questions regarding the application of these guidelines should be addressed to the Interpretation and Education Division.

I. PRC 513 Statutory Authority

SECTION 1. Section 513 of the Public Resources Code

(a) The department, as a means of furthering the interpretive and educational functions of the state park system, may enter into an agreement to act cooperatively with a nonprofit cooperating association engaged in educational or interpretive work in a state park system unit, as the director may designate, whereby the cooperating association would furnish educational and interpretive materials, or educational and interpretive services, or educational and interpretive materials and services, for sale to the public.

(b) Pursuant to Article 1 (commencing with Section 5080.02) of Chapter 1.2 of Division 5, a concession may provide materials and services that are intended to add to the convenience, enjoyment, and safety of state park system visitors. A concession may also provide, pursuant to this section, educational and interpretive materials and services, as described in paragraphs (2) and (3) of subdivision (d), with the approval of the department.

(c) A cooperating association may provide, pursuant to this section, noneducational and noninterpretive materials and services, as described in paragraph (4) of subdivision (d), as part of its cooperating association program with the approval of the department, if the department is unable to obtain, through a good faith effort, a concessionaire to provide those materials and services.

(d) For purposes of this section, the following definitions apply:

(1) "Cooperating association" means a corporation that meets all of the following criteria:

(A) The corporation is a nonprofit public benefit corporation, organized pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code.

(B) The articles of incorporation of the corporation state that the specific purpose of the corporation is to provide support for educational and interpretive programs of the state park system, or portions of the programs.

(C) The corporation has a cooperating association program contract with the department.

(D) The corporation is in compliance with the department's policies and guidelines regarding cooperating associations and has obtained the department's approval for its educational and interpretive materials and services.

(2) "Educational and interpretive materials" include items that promote visitor appreciation, understanding, and knowledge of natural, cultural, and historic resources of the state park system, including educational and interpretive gifts and souvenirs.

(3) "Educational and interpretive services" include those activities and programs that focus on natural, cultural, and historic resources of the state park system and are not generally offered by the department.

(4) "Educational and interpretive materials and services" do not include lodging, food service, horse and equipment rentals, camping supplies, gifts and souvenirs, other than those described in paragraph (2), transportation, except for equipment owned by the department, recreational lessons, and the operation of specialized facilities within a state park unit such as the theater at Hearst San Simeon State Historic Monument and Old Town San Diego State Historic Park, golf courses, and marinas.

(e) The department, at its discretion, may provide the services of department personnel and shall provide space, if available, for the sale of cooperating association materials, services, or both, within a state park unit.

(f) Subject to rules and regulations that the director shall adopt, all moneys collected by the cooperating association or received by the department from the sale of cooperating association materials, services, or both, provided by a cooperating association shall be retained by or returned to the cooperating association for use in the interpretive and educational programs of the state park system unit that the cooperating association has been designated to serve.

II. Definitions

A. Interpretive and Educational Materials

Interpretive and educational materials support the Department's mission, relate significantly to the interpretive and educational themes¹ as defined in general plans, interpretive plans and other planning documents and, where applicable, to the interpretive period of the park unit where the merchandise is offered. The materials portray iconic images, objects, landscapes or words that embody a park unit's heritage or sense of place. By enhancing the visitor experience and helping

¹ Workbook for Planning Interpretive Projects in California State Parks, 1997, pages 49-51
<http://www.parks.ca.gov/pages/735/files/InterpProjectWorkbook.pdf>

promote the park or park resources, the materials provide visitors with a lasting connection to the park or region or the natural, cultural, and historic resources of the State Park System. Interpretive and educational materials contribute to a better understanding of major park themes, provide site orientation to visitors, and support participation in interpretive and educational activities. If the item is not related to the interpretive and educational themes of the park unit and does not have interpretive text to explain its connection to the natural, cultural, and historic resources of the State Park System or individual state parks then it may be considered non-educational and non-interpretive. See Exhibit A for some examples of common interpretive and educational materials.

B. Interpretive and Educational Services

Interpretive and educational services relate significantly to the interpretive and educational themes² and, where applicable, the interpretive period of the park unit where the services are offered. These services support the department's mission and reflect themes and goals identified in general plans, interpretive plans and related documents. Interpretive and educational services include those activities and programs that focus on natural, cultural, and historic resources of the State Park System and individual state parks. Such services are designed to "forge emotional and intellectual connections between the interests of the audience and meanings inherent in the resource."³ These services may be provided by a cooperating association and include seminars, classes, tours, and events. If the service does not relate to the interpretive and educational themes of the park unit and has no connection to the park where the service is being sold or the California State Park System, then it may be considered non-educational and non-interpretive. See Exhibit B for some examples of common interpretive and educational services.

Cooperating associations shall not charge for interpretive and educational services typically offered by the Department that are part of the traditional park experience such as nature walks, Junior Ranger programs, and campfire programs. These department-provided services are included with paid entrance to a state park. Fee-based, association-provided programs must be a "value added" service.

C. Recreational Lessons

Recreational lessons involve fee-based learning of skills, such as horseback riding, off-highway vehicle activity, surfing and other water sports. These lessons are provided by concessionaires. Unlike interpretive and educational services, recreational lessons are not primarily designed to forge emotional and intellectual connections between the interests of the audience and meanings inherent in the resource.

D. Good Faith Effort

PRC 513, as amended January 1, 2009, requires the Department to make a good faith effort to obtain a concessionaire to provide non-interpretive and non-educational materials and services before it approves the sale of such items by a cooperating association. A good faith effort is a documented, reasonable endeavor to solicit competitive interest from qualified businesses.

III. **Proposed Policies and Procedures**

² Ibid.

³ Refer to the National Association for Interpretation, <http://www.interpnet.com/> for a definition of interpretation

A. Interpretive and Educational Materials and Services

1. Cooperating association sales generally occur at a visitor center, entrance station, museum or other visitor information facility. Concession sales generally occur at snack bars, camp stores or other facilities that are traditionally operated for the safety and convenience of the public in the use and enjoyment of the State Park System.
2. Association-provided services may not supplant or replace department employees per Government Code section 19130.
3. The District Superintendent/designee makes the final decision to determine if a material or service is interpretive and educational consistent with Exhibit A *Sample Interpretive and Educational Materials* and Exhibit B *Sample Interpretive and Educational Services*.

B. Non-interpretive and Non-educational Materials and Services

The Department may authorize a cooperating association to sell non-interpretive and non-educational materials and services if the Department is unable to obtain, through a good faith effort, a concessionaire to provide such materials and services. The following procedures demonstrate a good faith effort to obtain a concessionaire for non-interpretive and non-educational sales and services. The good faith effort must be documented prior to authorizing a cooperating association to engage in such activities to ensure that these sales are justified. (See Exhibit C, Good Faith Effort Process.)

Good Faith Effort Procedure

1. On-site concessionaires shall receive first right of refusal for the sale of non-interpretive, non-educational materials and services in that state park unit.
2. If the cooperating association sells materials purchased from an on-site concessionaire or the State Park E-Store, the good faith effort has been satisfied and the cooperating association may sell the non-interpretive, non-educational merchandise.
3. To demonstrate a good faith effort, the District will:
 - a) In parks with a Concessionaire
Solicit the interest of the on-site concessionaire(s) in offering sales of the non-interpretive and non-educational materials or services. If the on-site concessionaire(s) is not interested, the District shall document the lack of interest by written communication. The good faith effort has been satisfied and the cooperating association may sell the materials and services until the termination of the cooperating association agreement or the existing concession contract, whichever occurs first. A future concession contract may include the non-interpretive, non-educational materials/services as approved by the Chief of Concessions, Reservations and Fees Division and the District Superintendent in consultation with the Chief of the Interpretation and Education Division.
 - b) In parks without a Concessionaire
If there is no on-site concessionaire, the District shall document the solicitation of interest from at least three (3) business entities within a reasonable distance of the park unit that engage in sales or services activity similar to that desired by the park unit for the sale of non-interpretive,

non-educational materials or services. These solicitations will be recorded on the Solicitation of Business Interest form (Exhibit D). If one or more contacted businesses express interest, the Concessions, Reservations and Fees Division may negotiate a concession contract or engage in the Request for Proposal (RFP) process consistent with Public Resources Code Section 5080.01 et seq. If there are negative responses, including no response, the good faith effort is satisfied and the cooperating association may sell the materials/services with DPR approval until the termination of the cooperating association agreement.

4. Limits and Feasibility

- a. A cooperating association's non-interpretive and non-educational sales and services revenue in an individual park unit must remain under \$50,000 in gross sales and not be a majority of the overall sales activity.
- b. If a cooperating association's gross receipts from the sale of non-interpretive and non-educational materials and services are greater than or equal to \$50,000 annually in an individual park unit, or constitute a majority of the overall sales activity at that unit, the sale of such items shall become a concession operation. The District Superintendent shall consider sales space availability, critical visitor services, business feasibility and other relevant factors to determine whether an operation for the sale of non-interpretive and non-educational materials or services separate from the sale of interpretive and educational materials and services is feasible.
- c) If non-interpretive and non-educational materials and services are feasible as a separate sales operation, the Concessions, Reservations and Fees Division shall negotiate a concession contract or engage in the Request for Proposal process consistent with Public Resources Code 5080.01 et seq. for the sale of the non-interpretive and non-educational materials and services, and the cooperating association may continue to sell interpretive and educational materials and services pursuant to its cooperating association agreement.
- d) If non-interpretive and non-educational materials and services are not feasible as a separate sales operation, the Concessions, Reservations and Fees Division shall negotiate a concession contract or engage in the Request for Proposal process consistent with Public Resources Code 5080.01 et seq. for the sale of both the non-interpretive and non-educational materials and services and the interpretive and educational materials and services.

C. Firewood Sales

1. On-site concessionaires have first right of refusal to sell firewood in state park campgrounds.
2. A cooperating association may sell firewood if:
 - a) there is no on-site concession, or
 - b) the on-site concession is not interested in selling firewood, or
 - c) the on-site concession can only sell firewood during limited times of the year or day, (the cooperating association may sell at other times), or
 - d) the on-site concession is not in a location convenient to campers.

3. If an association is selling firewood and conditions identified in 2 a-d change, the firewood sales will be offered to the on-site concessionaire at the expiration of the cooperating association's contract.

D. Financial Reporting

Gross receipts from the sales of a cooperating association's non-interpretive and non-educational materials and services shall be accounted for on the DPR 973, Cooperating Association Annual Report, Financial Statement, Exhibit E.

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Exhibit A

Sample Interpretive and Educational Materials

Materials/gifts/souvenirs that could be sold by association as interpretive and educational with DPR approval	Interpretive and educational justification related to the interpretive themes and/or period
<p>Print Media</p> <p>Publications (such as books, brochures, maps, calendars, etc.)</p> <p>Posters, art, post cards, gift notes with text that interprets natural or cultural history, or are park-specific</p> <p>Hiking/touring guides</p> <p>Field guides</p>	<ul style="list-style-type: none"> Promotes visitor appreciation, understanding, and knowledge of natural, cultural, and historic resources of the State Park System or a specific park/site Helps convey appreciation for and understanding of a site or park program Encourages personal discovery of park resources Allows purchaser to gain new insights into park resources Connects resource values with visitor interest and explains the meaning of the resource through interpretive text Does not include newspapers and periodicals that are generic and not specific to the State Park System or individual state parks
<p>Audio-Visual Media</p> <p>CD/DVD/other media w/ interpretive programs, park-related images or information, music or lyrics about park resources, animal calls or sounds, historical songs, or stories</p> <p>Movies (modern and historic) made in or about the park</p>	<ul style="list-style-type: none"> Promotes visitor appreciation, understanding, and knowledge of natural, cultural, and historic resources of the State Park System or individual state parks Supports a connection between the tangible and intangible elements of park resources Explains connections to places in state parks through interpretive text or other media Does not include modern media with marginal interpretive connections
<p>Logo Merchandise (with DPR, park or association name/logo)</p> <p>Clothing (shirts, hats, caps, vests, patches, visors)</p> <p>Drink containers (mugs, cups, glasses, refillable water bottles)</p> <p>Tote bags, medallions, pens, pencils, key chains, compasses</p>	<ul style="list-style-type: none"> Explains the connection to park-specific resources and values through interpretive text Created and produced by the association with park approval Uses sustainable or recycled materials in creating the item Communicates a park's "sense of place" Knowledge about park resources can be better remembered and shared through objects with park names and images Viewing park names and images increases the purchaser's awareness of park resources and remembrance of park experiences, helping further the State Park System mission Images and text stimulate public interest in parks and build support for and awareness of the park and the association Does not include images and names that are generic and not specific to the State Park System or an individual state park

<p>Educational Toys and Games</p> <p>Toys/puppets of iconic park wildlife</p> <p>Games, puzzles, playing cards about park issues and resources</p> <p>Mobiles of park wildlife, resources</p> <p>Toys and games of Indians or pioneers</p>	<ul style="list-style-type: none"> • Stimulates public interest in park resources and helps increase awareness of interpretive and educational themes and topics • Games can support positive attitudinal and behavioral changes • Images reflect or represent park resources/icons and text that explains the connection with park resources • Toys and games make information more meaningful • Does not include generic animals/images/objects that are not a significant part of the park experience
<p>Authentic reproductions, representations, and scale models</p> <p>Historic/cultural replicas</p> <p>Museum object replicas</p> <p>Iconic natural resources</p> <p>Ethnic crafts and jewelry</p> <p>Modern jewelry depicting park images and resources</p> <p>“Park-made” soap, candles, crafts</p> <p>Herbal cachets made from park plants</p> <p>USGS benchmark replicas</p>	<ul style="list-style-type: none"> • Provides a tangible connection with important interpretive resources, events or experiences • Important connection with the essence of the interpretive experiences • Jewelry images must reflect or represent park resources/icons • Interpretive text explains connections with park resources and enhances interpretive value

Exhibit B

Sample Interpretive and Educational Services

Services that could be sold by association as interpretive and educational with DPR approval	Interpretive and Educational Justification related to the interpretive themes and/or period
<p>Lectures</p> <p>Seminars, classes, workshops</p> <ul style="list-style-type: none">• day or night• daily/weekly/monthly• weekend or overnight• special school/youth programs <p>Tours (when vehicles or transportation devices/animals are owned by the participants or by the department) example: foot, bicycle, canoe, kayak and other human-power crafts or vehicles</p>	<ul style="list-style-type: none">• Provides opportunities for more in-depth discussion and experience• Meets one or more of the definitions in section II(B).• May need a separate special-event permit or other agreement to govern each different type of activity or service• Helps park visitors better understand and appreciate the resources and values inherent in the park that define or illustrate a park unit's heritage or sense of place• Contributes to a better understanding of major park themes• Provides site orientation to visitors• Supports participation in interpretive and educational activities

Exhibit C

Good Faith Effort Process

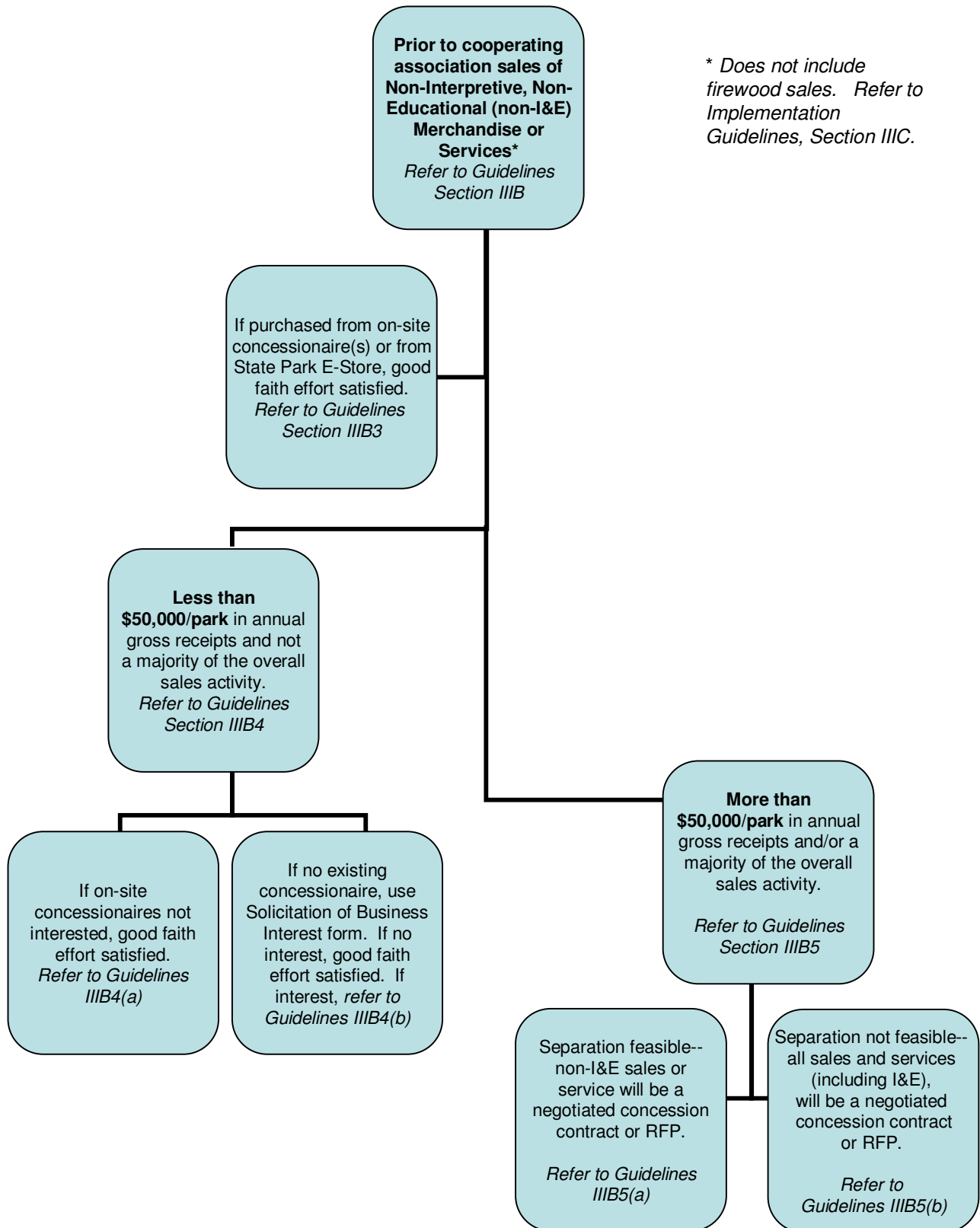


Exhibit D

California Department of Parks and Recreation (DPR)
Solicitation of Business Interest
(Instructions on reverse)

A General Information (Completed by DPR Staff)

Park Unit:	Supplier Name:
Park District:	Supplier Address:
District Superintendent or Designee:	Supplier Contact/Phone Number:

B Solicitation Description (Completed by DPR Staff)

Types of Materials or Services:			
Minimum Requirements of Provider (i.e. special equipment or experience):			
Bond Requirement:			
Insurance Requirements:	Liability	Workers Comp	Property
Projected Annual or Monthly Gross Receipts:			
Minimum Rent to State: Greater of \$ month/year or % of gross receipts			

C Business Solicitation by Phone (Completed by DPR Staff)

I certify that I completed this solicitation and accurately reflected the business supplier's response below.
Date of Solicitation:
District Superintendent/Designee Signature:

D Business Solicitation Response

<input type="checkbox"/> Yes, I am interested in this sale or service opportunity and meet the minimum requirements described above.	
<input type="checkbox"/> No, I am not interested and/or unable to meet the minimum requirements of this sale or service opportunity.	
Supplier Signature:	Date:
Business Name:	

(Front)

Exhibit D

Instructions for Completion of Solicitation of Business Interest Form

The purpose of this form is to comply with PRC 513(c). It documents a good faith effort to solicit interest from local businesses to provide non-interpretive and non-educational materials or services within a specific park unit through a concession contract. **This form is applicable when non-interpretive, non-educational sales are less than \$50,000 in annual gross receipts in an individual park unit and not a majority of overall sales activity.** It may also be used to document that an on-site concessionaire is not interested in a particular sales opportunity.

Part A General Information

1. District Superintendent/Designee identifies three (3) local business entities that engage in similar sales or service activity as desired in the park unit.
2. District Superintendent/Designee may complete the form through phone contact, in person or by mail. Certify phone solicitations in Part C.
3. Use one form for each business contact.

Part B Solicitation Description

1. Types of Materials and Services. District Superintendent/Designee generally defines the types of non-interpretive, non-educational materials or services desired to meet park visitor needs or interest.
2. Minimum Requirements of Provider. District Superintendent/Designee defines the minimum requirements of a prospective operator. Consideration includes location, hours of operation, equipment, expertise, and experience when applicable.
3. Bond/Insurance Requirements. District Superintendent/Designee inserts the minimum bond/insurance amounts required for State contracts. Property/Fire insurance is required if a prospective vendor will take possession of a State-owned building structure to operate the business.
4. Projected Gross Receipts. District Superintendent/Designee projects either monthly or annual gross receipts based on prior similar operations in the area.
5. Minimum Rent to State. District Superintendent/Designee indicates the minimum amount of rent payable to the State based on projected gross receipt information.

Part C Business Solicitation by Phone

DPR staff sign and date if appropriate.

Part D Business Solicitation Response

1. If there is feasible interest in the sales opportunity, District Superintendent/Designee will work with Concessions, Reservations & Fees Division to negotiate a contract.
2. If there is no expressed interest, the District Superintendent/Designee may authorize a cooperating association to engage in the non-educational, non-interpretive activity in accordance with PRC 513 Implementation Guidelines.
3. A non-response to a documented Solicitation of Business Interest is noted as a negative response.
4. Maintain the completed forms on file at the district office until the cooperating association is no longer authorized to provide the non-interpretive, non-educational materials or services, or until a concessionaire begins providing such materials or services pursuant to Part D (1) above.

Exhibit E Annual Statement of Sales Income

Park Name: _____ Association Name: _____

(All figures must be accounted for by state park unit)

Interpretive and Educational Sales

Materials

- 1 Gross Sales - materials
- 2 Less: returns and refunds
- 3 Less: cost of goods (COG)sold
- 4 Gross Profit or (Loss) from sales of materials

Services

- 5 Gross Sales - services
- 6 Less: returns and refunds
- 7 Less: cost of services sold
- 8 Gross Profit or (Loss) from sales of services

Materials and Services

- 9 Total Gross Sales (add lines 1+5)
- 10 Less Total Returns and COGs (add lines 2, 3, 6, 7)
- 11 Total Gross Profit or (loss) for Interpretive and Educational Sales

Non-Interpretive and Non-Educational Sales

Materials

- 12 Gross Sales - materials
- 13 Less: returns and refunds
- 14 Less: cost of goods sold
- 15 Gross Profit or Loss) from sales of materials

Services

- 16 Gross Sales - services
- 17 Less: returns and refunds
- 18 Less: cost of services sold
- 19 Gross Profit or (Loss) from sales of services

Non-Interpretive and Non-Educational Materials and Services

- 20 Total Gross Sales (add lines 12+16)
- 21 Less Total Returns and COGs (add lines 13, 14, 17, and 18)
- 22 Total Gross Profit or (Loss) for Non-Interpretive Sales (add lines 15 & 19)

Firewood Sales

- 26 Gross Sales – firewood
- 27 Less: returned/damaged firewood
- 28 Less: cost of goods sold
- 29 Gross Profit or (Loss) for Firewood Sales

Total for All Sales

- 30 Total Gross Sales (add lines 9+20+26)
- 31 Total Gross Profit or (Loss) for All Sales (add lines 11+22+29)